

Enacting Law: The Dramaturgy of the Courtroom on the Contemporary Stage

by Steff Nellis | Issue 10.1 (Spring 2021)

ABSTRACT Although historical research into twentieth-century theatrical tribunals is widespread, the recurring theme of justice in contemporary performance practices remains largely unexplored. However, an increasing number of twenty-first-century artists have begun relying on structures of the court. By creating theatrical tribunals, these artists try to create a space for an alternative jurisdiction. However, a clear typology of this tribunal genre in the contemporary performing arts is still lacking. This article therefore aims to characterize theatrical tribunals. In the first section, I describe the setting of the courtroom as a theatrical place in which law gets enacted or performed. Following several scholars that already stated the important spectacular aspects of the legal system, I discuss the dramaturgy of the courtroom as a specific dramatic place with its own scenography, script, and dramatis personae. Next, by analyzing the dramaturgy of the courtroom, I distinguish two categories within the tribunal genre: (1) re-enactments of preeminent lawsuits that heavily rely on twentieth-century documentary practices and (2) performative pre-enactments of futuristic trials that have not yet been held or cannot be held because of systemic shortcomings. Finally I examine how contemporary theatrical tribunals could contribute to the enlargement of public knowledge on historical and contemporary examples of injustice, and whether they could obtain effective changes in our societies.

KEYWORDS courtroom, courtroom drama, justice, performance, pre-enactment, re-enactment, theatre

Preface

In June 2020, sixty years after the independence of the Democratic Republic of Congo, King Filip I of Belgium expressed his deepest regrets for the acts of violence and brutality inflicted by his ancestor, Leopold II, during Belgium's rule over Congo.¹ Although this expression of regret can be seen as a big step in recognizing the colonial horrors, the king did not offer any official apology to the surviving relatives of the families involved, which met with great opposition.² After all, Belgium has a troubling colonial past. The Democratic Republic of Congo used to be a Belgian colony in Central Africa from 1908 until its independency in 1960. Before 1908, King Leopold II privately ruled over the Congo Free State, eventually earning an infamous reputation due to the atrocities he perpetrated onto the local inhabitants causing his legacy to be widely known as one of the greatest international colonial scandals of the early twentieth century.³ Today, however, there are still more than seventeen glorifying statues and busts in Belgium praising the former colonial ruler.

In the spring of 2020, in the wake of the Black Lives Matter (BLM) Movement, several colonial monuments and glorifying statues and busts of King Leopold II were taken down and even removed from public spaces by official institutes.⁴ Furthermore, left wing

politicians introduced a concrete legislative proposal to explicitly include the Belgian colonial history in the final attainment levels of primary as well as secondary education.⁵ This served as a manner of countering the general unawareness of the colonial history and the atrocities committed by King Leopold II on the part of many Congolese citizens. Unfortunately, the proposals were rejected by the center-right government: the proposal for the resolution on explicitly including the colonization and the corresponding decolonization process in the final attainment levels in Flemish primary and secondary education was rejected. Above, the proposal for a resolution on strengthening historical awareness and critical thinking about the present and the past in Flemish education was also rejected.⁶

Subsequently, Chokri Ben Chikha, a Flemish director and the artistic leader of the performance collective Action Zoo Humain, launched a call on Facebook claiming he and his collective would be able to help the Belgian government to respectfully deal with the colonial past.⁷ After all, Action Zoo Humain does have a lot of experience in organizing lawsuits that deal with racial abuse, colonialism, and racism. Referring to their artistic *Truth Commission* (2013-2018, in Dutch: *De Waarheidscommissie*), a recurring live performance organized in actual courts of justice in Ghent (2013), Cape Town (2014), Antwerp (2016), Mechelen (2017) and Brussels (2018), Action Zoo Humain offered their help to develop an alternative courtroom that would deal with colonial malpractices, both in the past and in the present.⁸ (Figure 1)

The setting of the performance in an actual court building increases its veracity. One cannot but wonder: "Is this an actual court of justice in which real court proceedings take place"? Besides Action Zoo Humain, an increasing number of twenty-first-century artists have begun relying on structures of the court. By creating theatrical tribunals, these artists are trying to create a space for an alternative jurisdiction. However, a clear typology of this tribunal genre in the contemporary performing arts is still lacking. This article therefore aims to characterize and analyze theatrical tribunals. In the first section of this article, I describe the setting of the courtroom as a theatrical place in which law gets enacted or performed. Following several scholars that already stated the important spectacular aspects of the legal system, I discuss the dramaturgy of the courtroom as a specific dramatic place with its own scenography, script, and dramatis personae. Next, by analyzing the dramaturgy of the courtroom on the contemporary stage, I distinguish two categories within the tribunal genre: (1) re-enactments of preeminent lawsuits that heavily rely on twentieth-century documentary practices and (2) performative pre-enactments of futuristic trials that have not yet been held or cannot be held because of systemic shortcomings. Finally, in the wake of *Lateral's* issue on *Leveraging Justice* < <https://csalateral.org/archive/issue/5-2/>>, edited by Janelle Reinelt and María Estrada-Fuentes, I briefly examine how contemporary theatrical tribunals such as the *Truth Commission*, among other performances, could contribute to the enlargement of public knowledge on both historical and contemporary examples of injustice, and whether they could possibly obtain effective changes in the policies of our societies (2016).⁹



<https://csalateral.org/wp/wp-content/uploads/2021/02/Image-1-Steff-Nellis.jpg>

The audience in the Belgium Senate in Brussels during a performance of *De Waarheidscommissie* (2018).

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The Dramaturgy of the Courtroom

"Justice has to be seen to be done," is a famous dictum from 1924 that was laid down by Lord Hewart, one of the former Lord Chief Justices of the United Kingdom. Hewart indicated that it is important for justice to be seen to be done in order that no misunderstanding or suspicion of improbity can lead to the abolishment of a conviction. In the same way, as Erika Fischer-Lichte states in her influential *The Semiotics of Theater*,

the cultural system of theater is based on two constituent elements that must exist if it is to be theater: the actor and the spectator. These two constituent elements implicitly contain a third. For the actor is only an actor and not just a person A, B, or C to the extent that s/he portrays someone else, X, Y or Z, i.e., plays a role. In other words, the minimum preconditions for theater to be theater are that person A represents X while S looks on.¹⁰

Both law and theatre require the external eye of an onlooker to existentially become the cultural system they ought to be. This is endorsed by Alan Read, who indicates an ontological connection between the acts of performance in law and theatre: "[Law] operates through *action*, not just a mental operation. It is made up of performing and spectating."¹¹ In this way, the courtroom can be considered as a highly theatrical space in which all involved are nothing more than a bunch of actors trying to play their best part. Furthermore, Peter Goodrich states there is a baroque coinage describing law as '*theatrum Veritatis et iustitiae*,' the theatre of justice and truth.¹² Following Goodrich, law

thus has a specific tradition of drama, both seen and unseen. Referring to Kenji Yoshino's book, *Covering* (2006), Goodrich refers to the theatrical modes of law as "covering," a form of exposing and concealing at the same time:

No covering, no law. So here, or so at least we may suspect, the life of the law is covering, not the *ars moriendi* or art of shrouding, of dying, but rather the rhetorical and highly figurative art of lawyering. So covering is necessary for law, indeed brings it to life, because without the theatre of covering, the life giving social art of playing the role of the lawyer, there would be no law. *Lex animata* or living law is only made possible by covering.¹³

Thus, the courtroom is a place of covering: a theatre stage on which law gets performed and thus enacted. Consequently, considering its spectacular dramaturgy to try to collect evidence by re-enacting the crime committed, the courtroom should be studied in a theatrical way. However, the dramaturgy of the courtroom can be approached from different fields of study, among which law studies, cultural studies, anthropology, theatre and performance studies but also architecture and interior design. For example, Lawrence Corrigan, Heather Robertson, and Bruce Anderson propose that the courtroom operates as a "performing space" because it can be conceived theatrically, "staged by its principal actors (judge, jury, lawyers, and defendant) and a putative audience (the courtroom gallery and the actors themselves as an audience of their own performance)."¹⁴ In the same way, Marett Leiboff states in her recent study, *Towards a Theatrical Jurisprudence* that "law is a curated practice, and that lawyers, and by extension the courts, are its curators, its custodians, who need to take care of and be responsible for law."¹⁵ Thus, enacting law is a specific performative practice. More specifically, in representing the rule of law, court cases enable the members of a political community to find their place within the greater *theatrum mundi*, the narrative of society. In this sense, and following Julie Saada, every trial can be considered a "show-trial," understood as a didactic performance that consists of a judicial ritual in which the spectator is taught the feelings s/he should experience.¹⁶

Saada's remarks on the social function of law are significant for all forms of jurisdiction, but especially for the infamous genre of postwar tribunals that emerged in the second half of the twentieth century. As shown by Knop and Riles, after World War II, the Allied powers established several international tribunals.¹⁷ The Nuremberg Tribunal can be considered as one of the most well-known examples in the West, but there were also set up Eastern tribunals as the Tokyo Tribunal.¹⁸ Ever since, the international community set up tribunals to deal with major violations against human rights in postwar societies, among which are Germany (1946), Israel (1951–1972) Yugoslavia (1993), Rwanda (1994), and South-Africa (1996). Moreover, at the beginning of the new century, an official International Criminal Court to judge political leaders accused of international crimes was established in the Hague, in the Netherlands. As indicated by Saada, these kinds of international tribunals are meant to enhance a feeling of shared indignation and to strengthen the solidarity between citizens in a by war or politics divided society.¹⁹ Ever since the second half of the twentieth century and especially from the 1990s onwards, the shape taken by these international criminal tribunals transformed the main focus on jurisdiction from retribution and punishment towards reconciliation and restoration. As a form of collective emotional experience, the international tribunals aimed for catharsis as a dramatic form of transitional justice that marked an emotional process of purification and going through the pain caused by the crime.

Law seeks to enhance a form of catharsis from the part of its spectators, as does theatre. Thus, besides the morphological similarities mentioned above, law and theatre share a sociological function too, emphasizing the restorative function of both cultural systems. However, Peter Goodrich and Valérie Hayaert indicate in their groundbreaking study, *Genealogies of Legal Vision*, that the study of these theatrical dimensions of law, the dramaturgy of a trial, the scenography of the courtroom, and the performance of governance have been severely neglected up until now:

The visual domain of legal performance, the ornate and distinctive filigree of law's social presence has been treated as profoundly secondary and marginal to the business of rationalizing doctrine and cohering texts, and yet [...], the image is the mode of law's opening to the social and simultaneously the medium of its transmission.²⁰

Indeed, the courtroom must be considered as a spectacular ritual that is able to manipulate images, evidence, and even people. Moreover, as is endorsed by Koskenniemi, any tribunal consists of commonly known facts on the one hand, and constructed facts arising from the trial itself on the other.²¹ Thus, law's theatrical modes enable the production of knowledge on innocence and guilt to be covered in a profoundly subjective fiction that is easily mistaken for an objective reality. Therein lies a danger that should not be underestimated since history has shown the theatricality of law can easily be abused in order to stage unfair political show trials in which the outcome is already predetermined. As Julie Cassiday demonstrates, the format of the trial can be seen as an arena for propaganda to stage political lessons, as was the case in the *Moscow Trials* that followed the Russian Revolution from the 1920s onwards.²²

Yet, law's theatricality offers some opportunities as well. From 1945 onwards, a deliberate amount of real live trials was being re-enacted in theatre. Although criminal trials and international tribunals were meant to enhance the feeling of shared indignation and solidarity between citizens, by no means all people felt involved within the trial. From the same desire for the democratization of the legal system, the re-enactments of famous lawsuits within the performing arts aimed at including public opinion within the process of judgement itself. In this way, the collective ritualistic experience could be doubled and opened up to a wider audience, which can be seen as the most important political stake of the tribunal *genre* in theatre. In the following, I outline the dramaturgical approach within theatrical adaptations of lawsuits. In what ways does the above-mentioned dramaturgy of the courtroom reiterate itself within the confines of a theatre hall when artists enact law on stage? In the next section, I discuss present-day examples of performances that re-enact historical lawsuits as a continuation of the twentieth-century documentary tradition. Subsequently, another highly topical strategy to engage with jurisdiction in theatre will be presented: the theatrical pre-enactment of unprecedented lawsuits.

Re-enacting Law

For several decades now, academics have been studying the popularity of courtroom dramas as a specific genre in the history of theatre.²³ After all, the connection between the court and the stage is as old as both disciplines themselves. As pointed out by Klaas Tindemans, law and theatre share historical antecedents since ancient tragedy and primitive law in early democratic Greece show several similarities.²⁴ First of all, Tindemans

points out the representative character of both disciplines. Similar to the tragedy, which presents itself on stage as a fictional narrative, courts aim at building up a faithful, mimetic reconstruction of a crime. Furthermore, Tindemans mentions the crucial moments of *anagnorisis* and *peripeteia* in the tragedy. These terms respectively stand for recognition, the moment of insight for the tragic hero, and the subsequent reversal of the tragic course. In a court case, this can be translated to the burden of proof and the evidence that would lead to a well-founded opinion of the jury and the verdict of the judge.²⁵ Finally, Tindemans also ascribes an ethical aspect to both law and tragedy: the evaluation of the intentions of the accused or the tragic hero, and their accountability or sense of reason.²⁶ Karel Vanhaesebrouck points out some similarities as well, though he approaches the intertwinement between law and theatre in a more general fashion:

Since its origins, theatre has been the perfect place for actors and viewers, together, to experiment with complex questions by playing and watching. Oftentimes, these questions are of a specific legal nature: the failure and functioning of direct democracy in the ancient Greek tragedies, the complex laws of sovereignty and succession in early modern tragedies, marital intrigues and their legal consequences in comedies and so on. Regularly, the courtroom itself is used as a theatrical framework, not only as a dramaturgical or scenographic tool, but also to expose the fundamentally theatrical character of the legal system itself. Theatre thus exposes the human failure of a system whose objectivity is its core value.²⁷

As is endorsed by Vanhaesebrouck, the theatrical set up of fictitious lawsuits throughout history was often meant as a means to involve people in processes of judgement. According to Kenji Yoshino, this was absolutely the case in Shakespeare's Elizabethan Tragedies.²⁸ Similarly, the plays of seventeenth century neoclassicist French playwrights such as Pierre Corneille, Jean Racine, and Molière often featured courtroom settings and characters that took on roles similar to those of a prosecutor, defense attorney, and judge. However, especially twentieth-century dramatists triumphed in creating fictional counterparts to preeminent lawsuits, as, for example, the Nuremberg Trials (1946) and the O. J. Simpson Trial (1994–1995). These have been broadly documented by theatre scholars in recent years. Yasco Horsman, for example, claims that the re-enactment of legal cases installs a "theatre of justice" in which the past can be staged, mourned, and eventually, worked through.²⁹ Doubling the dramaturgy of the courtroom on stage opens up the public discussion to a wider audience, which offers the tribunal genre an important political stake.

Referring to Shoshana Felman, Horsman suggests we need art to face up to a past that cannot be closed: What cannot be articulated on a legal stage needs an altogether different, literary theater of justice.³⁰ Thus, the tribunal genre in theatre goes on where legal jurisdiction stops. In this light, Marett Leiboff, among others, characterizes theatre as an important training ground for law.³¹ By re-enacting real lawsuits in theatre, the dramaturgy of the courtroom gets doubled on stage, bringing a wider audience into a closer relationship with the ritualistic practice of judgement. The same is true for Minou Arjomand, who has mapped the most important theatrical stagings of court cases from the period between the Second World War and 1968 in *Staged: Show Trials, Political Theater, and the Aesthetics of Judgement*. Arjomand argues, "While legal judgment can only address the past, theater can teach judgement as a continual process."³² Furthermore, Arjomand states that the legacy of these plays, based on some of the century's most infamous lawsuits, is now almost as well known as the court cases themselves. In her

study, she pays special attention to the twentieth-century plays of documentary artists Erwin Piscator, Bertolt Brecht, and Peter Weiss:

The era of postwar trials – the Nuremberg trials, the Eichmann trial, the Frankfurt Auschwitz trial – was also an era of trial plays. In these decades, trial plays not only flourished but also became a way to articulate the role of theater in postwar society. These plays sought to do some of the same work as postwar trials themselves, which were struggling to interrogate, represent, and judge unprecedented crimes.³³

According to Rebecca Schneider, the term re-enactment entered into increased circulation in the late twentieth- and early twenty-first-century art, theatre and performance circles: “The practice of replaying or re-doing a precedent event, artwork, or act has exploded in performance-based art alongside the burgeoning of historical reenactment.”³⁴ Within the practice of re-enactment, the clear divide between the fictitious and the real court case was often lost, especially because of the verbatim and documentary strategies the artists employed to stage their re-enactments. Literal quotations from textual and audiovisual sources were recontextualized on stage by using footage and verbatim materials like court reports, witnesses’ testimonials, and other sources that had been derived from real legal cases. Considering today’s tribunal plays, we must still acknowledge the value of the twentieth-century documentary techniques for the dramaturgical approach artists use within current court case performances. Nonetheless, these techniques are applied in a completely different manner. As their historical antecedents, contemporary “reenactment artists” use a documentary approach to establish a sort of democratic legal practice within theatre.³⁵ However, as stated by Frederik Le Roy,

the new generation no longer endorses the conviction that theatre from a critical outside position can show a reality that is ‘more real’ or ‘more objective’ than the reality that the media or education predicts. This generation uses theatre precisely to problematize the constant negotiation between reality and the inevitable representations of that reality.³⁶

In this sense, I refer to today’s tribunal plays as “artistic historical re-enactments.” Referring to Timmy de Laet (2016), these artistic-historical re-enactments do not shy away from unfolding a politically outspoken orientation as they aim to respond to, and sometimes even intervene in, our socio-cultural reality. Unlike the widespread, standard format of re-enactment which often presents itself as apolitical and ideologically neutral, the artistic historical re-enactment aims to install a “critical revision by strategically balancing between factual depiction and subjective reinterpretation.”³⁷ Hence, according to Katherine Johnson, re-enactments can prompt us to contemplate how to reflect, resist, and affect historical events now and in the future.³⁸ A very clear example can be found in Milo Raus’s 2009 performance *The Last Days of the Ceausescus*, a re-enactment of the notorious trial of Nicolae Ceausescu, the Romanian communist politician who was executed with his wife in 1989.³⁹ *The Last Days of the Ceausescus* accurately illustrates in what way a political mock trial can grow into an artistic-historical re-enactment. (Figure 2)



< <https://csalateral.org/wp/wp-content/uploads/2021/02/IMAGE-6-Steff-Nellis.jpg> >

Figure 2. A close up of the actor who plays the part of Nicolae Ceausescu during a performance of *The Last Days of the Ceausescus* (2009) by Milo Rau and the IIPM, used with permission.

The lawsuit and execution of Nicolae Ceausescu and his wife could be followed on television all over the world. As the images of the two planes that flew into the Twin Towers on 9/11, the Ceausescu trial is a well-known “event” in collective memory. However, as Rau indicates, the available images only show one side of the story:

The only known images of the event are from that live broadcast but show only a specific perspective on the event because the camera was fixed on the corner where the couple was sitting. We took this broadcast as our starting point, and by making a precise reenactment of the broadcast—frame by frame, second by second—and placing it on the stage we were able to open up the camera’s angle.⁴⁰

Rau uses the ambiguous space between reality and fiction and plays a game with the objectivity of history. As Frederik Le Roy states, by transforming the television broadcast into a dramaturgy for the stage, and by relying on the testimonies of a few prominent attendees to connect the missing links, Rau critically questions shared truth and collective memory.⁴¹ This trend, to fuse fact and fiction, is addressed by Carol Martin as “Theatre of the Real” in which she includes “documentary theatre, verbatim theatre, reality-based theatre, theatre-of-fact, theatre of witness, tribunal theatre, nonfiction theatre, restored village performances, war and battle reenactments, and autobiographical theatre.”⁴² Following Martin, “theatre of the real intervenes in our understanding of the world through the particular distorting mirror of theatre.”⁴³ Concerning Rau’s performance on the Ceausescu, we might conclude he tries to install a possible expression of Martin’s “Theatre of the Real.” While questioning the objective reality that law pretends to convey by offering another view on the story in his re-enactment of the trial, Rau does not aim to preach an alternative truth but rather highlights the ambiguous continuum between reality and fiction. After all, Rebecca Schneider recently indicated, re-enacting “may open an opportunity for rehearsing different historical response and, thus, if such a thing can be imagined, preenacting a different future for the past.”⁴⁴

In 2013, Rau put up two similar tribunal plays in Zurich and Moscow, respectively condemning *Die Weltwoche*, a right-wing populist Swiss magazine, for racism and discrimination, and the Russian government for significantly limiting the universal right to freedom of speech. While the latter was still based on previous mock trials against artists and curators, the first was an entirely new performance established by Rau himself. This evolution within the work of Rau can be seen as exemplary for the tribunal *genre* itself. Most artists that engage with the judicial in today's artistic climate no longer strive for re-imagining previous court cases by re-enacting them meticulously. Instead, they try to install new trials that critically question forms of injustice that are unprecedented in court. In this way, contemporary artists deploy the theatre as a rehearsal room for the staging of unprecedented juridical judgement. In doing so, they do not rely on the principles of reenactment, but instead on pre-enacting future lawsuits which have not yet taken place, or futuristic lawsuits which cannot take place yet because of institutional shortcomings caused by the rigorous legal system. Nonetheless, as Rebecca Schneider states, "In looking backward, reenactment looks forward. In looking forward, pre-enactment looks back."⁴⁵

Pre-Enacting Justice

The political stakes that were hidden in twentieth-century re-enactments were most importantly focused on incorporating a broader audience in the judging of highly topical trials that had a major impact on society. In doing so, artists included documentary footage, court reports, and testimonies that were derived from real legal cases. In this sense, the dramaturgy of the courtroom was entirely copied and transferred to the theatrical, fictitious realm. Although contemporary artists that enact law on the contemporary stage still heavily rely on documentary materials, as did their historical antecedents, their strategy mostly differs from the latter. The aforementioned performances of Rau showed a clear transition in his work, developing from a re-enacting principle towards a pre-enacting method. In this section, I hope to demonstrate that Rau is not alone in his approach. By stressing the performative shift from re-enactment to pre-enactment that occurred in the last decade, I will try to demonstrate the important political stakes of the tribunal genre on the contemporary stage. In doing so, I intend to outline the specific format and methodology of the pre-enactment as a performance strategy that actively engages with the public and political realm. In addition to other examples, Chokri Ben Chikha's *Truth Commission*, introduced in the preface to this article, can be seen as a textbook case of this pre-enacting principle.

With their performance, Action Zoo Humain investigates whether contemporary debates about migration, discrimination and racism can have their origins in Belgian colonial history, more specifically in the exhibition of "the exotic other" as an attraction in facsimile villages on World Exhibitions.⁴⁶ Action Zoo Humain thus not only inscribes itself in the decolonization debate, but also responds directly to the demand of a group of experts from the United Nations who recently called on the Belgian government to acknowledge Belgium's colonial past by apologizing for it and providing more public interest in postcolonial affairs. After all, there still is a troubling lack of knowledge on the broad colonial history and the atrocities committed in the long twentieth century by Belgium, as became clear in the introduction to this article. In order to counteract the general unawareness, *Truth Commission* tackles themes such as racism, social exclusion, marginalization, and colonialism. Although the setting of the performances, which were all

staged in actual courtrooms or state institutions, is doubling the dramaturgy of the South African Truth and Reconciliation Commissions, the specific methods used to discuss the crime during the performance are deliberately unsettling. Besides the public hearing, other more artistic interventions like dance, public discussions of literary books and advertisements accused of racism, and even a memorial ritual, are included in the performance. (Figure 3) Moreover, the positioning of the spectator in a real courthouse enhances the feeling of involvement within the performance. According to Christel Stalpaert and Evelien Jonckheere, "We feel addressed by the place of action in the Truth Commission, both by the theatrical apparatus and its architecture."⁴⁷



< <https://csalateral.org/wp/wp-content/uploads/2021/02/Image-3-Steff-Nellis.jpg> >

Figure 3. A dancing Chantal Loïal during a performance of *De Waarheidscommissie* (2018). Photo by Kurt Van der Elst, used with permission.

In the nineteenth and twentieth centuries, inhabitants of European colonies were put on display in *zoos humains* during the world exhibitions. In Ghent, Antwerp, Brussels, and many other Belgian cities, these human zoos were "inhabited" by African citizens of Belgian Congo and other countries. However, because of the bad conditions, the primitiveness of their exploitation, and the extreme climate differences to which they were not accustomed, a lot of people got sick and, eventually, even died. Although the main topic of the performance remains focused on the exhibition of these people, Ben Chikha does not shy away from dealing with similar acts of injustices against people of colour in our contemporary society.⁴⁸ For example, in the 2018 version of the play, there is an actor, Nabil Mallat, who condemns the installation of present-day *zoos humain* by accusing a Flemish political party (N-VA) of racism.⁴⁹ This rightwing nationalist party was heavily criticized because they introduced a campaign against the implementation of the Global Compact for Migration using photographs from the German far-right political party,

Alternative für Deutschland (AfD), depicting women in niqab.⁵⁰ In this way, the performance not only condemns acts of racism and colonialism in Belgian history but also contemplates on how a society should deal with this colonial legacy in order to counteract current expressions of injustice. It would not be surprising to see the company adding another version of the *Truth Commission* to their project very soon, dealing with police brutality, George Floyd, and Black Lives Matter.⁵¹

Today, a growing group of artists that engage with judgement in theatre is reconfiguring the scenography of the stage. Following Carol Martin's "Theatre of the Real"-doctrine, and in order to tackle highly topical debates and to transfer them to the stage, artists open up possibilities and try to bridge the gap between the audience and that which is depicted: essayistic lecture-performances, conversations on stage, semi-political conventions, and pseudo-scientific "Ted Talks" are all gaining ground in the performing arts.⁵² Encounter, conversation and discussion between artists, experts, and spectators on all possible topics are central to this kind of performance practices. One of the most remarkable examples of these reconfiguring scenographies is Bruno Latour's *Parliament of Things*.⁵³ In this theory, Latour claims humankind refuses to recognize the rights, autonomy and agency of objects. Therefore, he argues for a vision of the world in which the value of objects and other entities plays an active role. One of Latour's methods is to pre-enact future political events in a theatrical setting, in order to be prepared for real events, and to be capable of actually pursuing justice.

Yet, what can be more effective to challenge regular judgement within the legal system on stage than an alternative courtroom? After all, the dramaturgy of the courtroom depicts a much more concrete setting to judge all kinds of crimes. When specific charges are being taken to court, the indictments made by the artists can be dealt with in a more effective way. Therefore, the specific dramaturgy of the courtroom is gaining popularity within the performing arts again. Moreover, pre-enacting future lawsuits which have not yet taken place, or futuristic lawsuits that cannot take place yet because of institutional shortcomings encourage spectators to rethink the rigid, old, systemic ways of jurisdiction, and to reflect, instead, upon new imaginaries beyond regular proceedings.⁵⁴

The term pre-enactment literally means to enact beforehand. In juridical language, pre-enactments are laws being discussed before they get approved. According to Francesca Laura Cavallo, in performance, "pre-enactments operate at the border between reality and fiction: creating fictionalized scenarios that toy with real fear, uncertainty and trust to invalidate strategies of governance and shift the wider population's perceptions of risk."⁵⁵ Inspired by the possibilities of a reconfigured dramaturgy, as for example in Latour's *Parliament of Things*, contemporary artists no longer rely on the principles of re-enacting law, but instead imagine new ways of ensuring and pre-enacting justice. Nevertheless, the dramaturgy of the courtroom gets completely transfigured by means of the implementation of inventive and inspirational juridical alternatives. Inspired by the establishment of the great international tribunals that dealt with crimes in a more progressive way, contemporary artists that set up theatrical lawsuits tend to rely on alternative court proceedings as the Truth and Reconciliation Commission, transitional justice, restorative practices, and even embodied knowledge. The reconfigured dramaturgy of these legal pre-enactments responds to the shortcomings of regular jurisdiction, being too focused on retribution, guilt, and punishment instead of progress, recovery, and reconciliation.

Thus, current court case performances do not only bring a continuation of courtroom dramas based on artistic-historical re-enactments. Theatre is also founding futuristic tribunals that enact laws and legislation that previously did not exist, or which are not supported by the authorities. These alternative courts no longer focus on the past to draw lessons for the present, but rather focus on the present, the future, or the imagination. Deliberately changing the dramaturgy of the courtroom by including alternative forms of jurisdiction, contemporary artists rethink the ways in which the legal system is preoccupied with judgement and objectivity. In doing so, they make room for marginalized or unheard voices. In this sense, they resemble the aforementioned iconic international courts that wanted to set up people's tribunals that really listened to a broader public opinion. Hence, contemporary artistic tribunals not only raise awareness on the specific political subjects they treat, they also critically question the courtroom as an institution of judgement in itself.

In the *Truth Commission*, performers and spectators are brought together not only to judge the colonial past and its consequences today, but also to reflect on ways of dealing with contemporary forms of racism and colonialism, wishing to eliminate them in the future. (Figure 4) In 2018, when the performance was played for the fifth year, public debate in the media was marked by the sixtieth anniversary of Expo '58—The World Exhibition of Brussels in 1958—as well as the long-awaited reopening of the renovated Africa Museum in Tervuren. The Brussels Truth Commission therefore focuses on Belgium's colonial rule in Congo and more specifically on the exhibition of more than two hundred Congolese citizens in facsimile huts at the Brussels World Exhibition in 1958. As in the previous truth commissions, the aftermath of colonialism in contemporary Flemish society is also examined, including the integration class for non-Dutch-speaking newcomers, the problematic situation in Brussels' Maximilian Park, and the ingrained racism in everyday language. Commissioners and experts, including professors from various Flemish universities, together with surviving relatives and other witnesses including artists, actors, and authors, study the phenomenon of the *zoo humain* in its various forms by means of an historical analysis, personal testimonies, and performances.⁵⁶



< <https://csalateral.org/wp/wp-content/uploads/2021/02/Image-5-Steff-Nellis.jpg> >

Figure 4. The audience voting on guilt or innocence during a performance of *De Waarheidscommissie* (2018). Photo by Kurt Van der Elst, used with permission.

Significantly, the *Truth Commission* is not a truth and reconciliation commission as in the historical South African TRC. After all, reconciliation would imply that the performance does reach consensus. According to Stalpaert and Jonckheere, the fact that this is not the case is precisely the strength of the performance: rather than defending one single conviction, the *Truth Commission* exposes the complexity of the debate itself, which generates a fascinating shift from moralism towards ethics.⁵⁷ In this way, Action Zoo Humain's reconfigured dramaturgy responds to the shortcomings of regular jurisdiction, being too focused on retribution, guilt, and punishment, but does not claim to actually achieve justice or reconciliation. Instead, spectators are encouraged to continue the discussion outside the theatre. Although the performance culminates in a vote on the various accusations, among which the aforementioned by Nabil Mallat, and these votes are recorded and delivered to the Belgian authorities, it never comes to a real verdict. Instead, they withdraw from the regular regressive court structure that would accuse and sentence a clear defendant and instead reflect upon a judicial system that can be seen as progressive and is pointed towards the future. Therefore, pre-enactments as the *Truth Commission* can be seen as a speculative thought exercise starting in theatre and gradually dispersing into the public sphere. But the question remains: what exactly is the political potential of these theatrical tribunals?

Towards Theatrical Justice

In the wake of *Lateral's* 2016 issue on *Leveraging Justice*, edited by Janelle Reinelt and María Estrada-Fuentes, I briefly examine how these theatrical tribunals could actually live up to the political stakes they seek to fulfill. To what extent do they contribute to the enlargement of public knowledge on historical and contemporary examples of injustice, and how can they possibly obtain effective changes in policy priorities regarding these injustices? The answer becomes clear in a couple of specific cases. After all, besides the examples mentioned earlier, Milo Rau created another highly influential theatrical trial. Similarly to Ben Chikha, Rau installed a new court in 2017 entitled *The Congo Tribunal*, considering the current civil war in Congo. Despite pointing out the fictional status of his tribunal to the public on several occasions, which he characterizes as fictitious, independent, imaginary and "of the people," he expresses a great desire that the collected material will be taken seriously and may lead to real court hearings in the future.



< <https://csalateral.org/wp/wp-content/uploads/2021/02/IMAGE-2-Steff-Nellis.jpg> >

Figure 5. A courtroom sketch created during the Congo Tribunal (2017) and making fun of the fictional character of the tribunal. Illustration by Yves Kulondwa (aka Kayene), used with permission.

The Congo Tribunal is a site-specific court case performance that was first conducted in Bukavu (Congo) and later analysed by an international panel in Berlin, resulting in a 2017 documentary film that has traveled the world ever since. (Figure 5) In the absence of a real lawsuit that should have been set up by the international community to judge the systematic attacks on the Congolese population from 1994 onwards, Rau brought together various parties: the government, the opposition, victims, witnesses, (former) rebels, farmers, miners, activists, and local and international experts. By bringing together a multitude of voices in the project on the basis of documentary material, real testimonies and public interventions, Rau succeeded at organizing a quasi-formal gathering. In Congo, where the governor of Bukavu intervened in the debate from within the audience, the tribunal caused heated discussions that were taken up by the media and politicians. In the end, the government and a few large companies were held responsible by this fictional tribunal. In the Berlin Hearings, the World Bank and the European Union were convicted as well in a second verdict. When imperial abuses, sexual assault, colonialism, and other problems are neglected by the international community, theatre can publicly condemn these shortcomings within the real legal system by assembling public meetings itself, thereby claiming a voice in the debate that can counteract the dominant point of view. While real lawsuits emphasize legal responsibility, theatrical tribunals focus on moral responsibility. This shift is exemplary for contemporary court case performances, which is why the tribunal genre is highly desirable to build upon, to complete and even to precede regular proceedings, trials, and tribunals.



< <https://csalateral.org/wp/wp-content/uploads/2021/02/IMAGE-4-Steff-Nellis.jpg> >

Figure 6. A courtroom sketch figuring 'Witness J' during the Congo Tribunal (2017). Illustration by Yves Kulondwa (aka Kayene), used with permission.

Furthermore, the outcome of Rau's *Congo Tribunal* (2017) was a great success both locally and internationally because of the public space created for those community members who normally cannot make their voices heard. (Figure 6) Following on Rau's tribunal, other local meetings and "court hearings" have been held in different places on the initiative of local governments and activists. These tribunals can also be understood as theatrical, and therefore as safe, tolerant zones in which those involved try to meet each other to discuss reconciliation. Moreover, in the aftermath of *The Congo Tribunal*, two ministers were deposed from their official function. Yet, several members of Rau's artistic team were kidnapped, which shows the downside of the enterprise and illustrates that fictitious lawsuits cannot have the same coercive power as law itself. Its political and activist desire always remains unpredictable and difficult to fulfill. However, as argued by Klaas Tindemans, these performances should not be taken for granted. Considering Ben Chikha's *Truth Commission*, he pinpoints one particular moment to be extremely significant:

The most visible result from *De Waarheidscommissie*, as a process and as an actual performance, is the official apology of the mayor of Ghent, Daniel Termont. It may be criticized as gratuitous gesture, but it also exemplifies an important mechanism in democratic politics. [. . .] If a theatrical performance such as *De Waarheidscommissie*, results in a public apology about an unknown part of history, then this is a plus-value, a result of performative knowledge. [. . .] And a traditional Ph.D. thesis about the same subject would probably not have resulted in the mayor's declaration.⁵⁸

What Tindemans calls a plus-value is the actual performative outcome of a theatrical performance: in this particular case, the public apology from the mayor. However, this is not at all guaranteed for all performances of Ben Chikha's *Truth Commission*. During the Antwerp performance, for example, the right-wing mayor of Antwerp, Bart de Wever, refused to offer an official apology for the colonial *zoos humains*. Again, as Cavallo argues, these pre-enactments remain "non-events" of which their simulated realism is trapped by the manufactured state of anticipation.⁵⁹ In this sense, one might ask again what exactly the political stakes are here. Regarding this existential question on the politics of theatre, Christian Biet provides us with an important insight:

The question of the political in the theatre or of theatre as a political game, designating and depicting the appearance of all before all, does not imply that the theatre only *witnesses*, because, as acting or performance, it has a practical impact; it does something to or in the world thanks to the co-presence of its *apparatus*. Within the aesthetic-political proposal and productions themselves at work, it enacts something pertaining to the process of judgement. Through this process, it thus complicates the data it introduces in an ephemeral presence before and with co-present individuals. In so doing, it brings life to these judgements, gives them a body and flesh that is not a mere image.⁶⁰

Following Biet, theatre is able to set up a powerful meta-narrative. Considering the tribunal genre, artists open up possibilities to agitate from within by deliberately appropriating the dramaturgy of the courtroom. Whether artists re-enact previous lawsuits by meticulously copying their structure in a documentary format, or completely deconstruct the rules of law by relying on alternative practices of justice in order to pre-enact non-existing court cases, their artistic interventions can cause individual spectators to think through stubborn judicial systemics. This is endorsed by Avi Feldman:

The striving for three-dimensional justice in a global world achieved through the reactivation of artistic capabilities via interventions, encounters, and the creation of new institutions, rights, and counter-archives, holds a modest yet noble promise for the future possibility of reinventing democracy and the rule of law and of art.⁶¹

Therefore, besides Rau and Ben Chikha, a lot of artists are enacting law on stage including Christoph Meierhans, Rebekka de Wit, Anoenk Nuyens, Maria Lucia Cruz Correia, Lara Staal, Yoonis Osman Nuur, Jonas Staal, Eva Knibbe, Bart van de Woestijne, among others. Whether the artists address climate change, capitalism, racism, and colonialism or another highly sensitive but influential topic in contemporary society, they all share the need to bridge the boundary between spectator and performance, between law and theatre, and between reality and fiction. Theatrical tribunals are therefore considered thought experiments: speculative, utopian courts that ask critical questions from the part of the spectator on both ethical and moral, as well as political issues. As Nicole Rogers states, this is exactly what might lead them to live up to the political stakes they seek to fulfill:

Theatrical performances may be pure entertainment; on the other hand, they may galvanize audiences, insult the sovereign, incite disaffection. In documentary theatre, the (re)presentation of legal performances in the specific citational environment of the theatre creates a performance which has been shaped by theatrical conventions into something quite different to the original performance, but which still has its own performative quality. In this sense, the utterances in such theatrical performances are neither 'infelicitous' nor 'hollow'.⁶²

In this way, these performances not only contribute to the enlargement of public knowledge of both historical and contemporary acts of injustice, but might also change policy priorities in our society, as they publicly sue the aforementioned violations and crimes. As mentioned earlier, Yasco Horsman states we need law to close a case in the past, but we need art to close the cases that cannot be closed within the legal field itself.⁶³ In other words, we need theatrical justice to introduce procedures that have not yet been regulated by our current bureaucratic legal system.

Conclusion

As a live event, theatre can be seen as the utmost suitable place to discuss actual topics and heated debates. The ephemeral performing arts are a fleeting medium that comes as close to reality as an artform could possibly come. Therefore, theatre seems to be an appropriate apparatus for dealing with injustices in society. Moreover, transferring the spectacular dramaturgy of the courtroom to the stage seems a considerably useful means of experimenting with the way different communities deal with what drives and influences them. Hence, in this article, I tried to acknowledge the important political opportunities of present-day court case performances. By stressing the courtroom as a place of "covering"—a theatre stage on which law gets enacted—I intended to outline the opportunities for the theatre stage itself to double this specific juridical dramaturgy in order to open up its scope to a wider audience.

As a first, and most obvious strategy, theatrical re-enactments of existing court cases were presented. Following the rich history of theatre, and especially highlighting the approach of twentieth-century dramatists that used documentary strategies to stage

preeminent lawsuits from the past, I argued the re-enacting method was carried on in the twenty-first century. However, artists today no longer wish to copy reality on stage but radically question the premise of objectivity by offering an alternative point of view to the lawsuits depicted. Likewise, the second and most topical strategy that came forward within the confines of this contribution stressed the importance of negotiation and discussion regarding the different topics depicted in the performances. Hence, the pre-enacting principle offered an important strategy to rethink systemic ways of enacting law, and to reflect, instead, upon new imaginaries beyond regular proceedings. Although theatre remains a non-event that never could have the same coercive power to change reality directly, the most important political stake of these pre-enacting lawsuits seems to be their ability to question both the topic discussed within the trial and the courtroom as an apparatus in itself. By rethinking, deconstructing, and reconfiguring the theatrical dramaturgy of the courtroom on stage, a powerful meta-narrative gets installed that can cause individual spectators to think through stubborn systemics within the courtroom in particular and within society in general.




















Hence, the official declaration of King Filip of Belgium, expressing his deepest regrets for his country's colonial past in the summer of 2020, is an important step towards the recognition of the horrible fate many Congolese citizens suffered during the reign of King Leopold II. Although Filip I did not officially apologize for his ancestor's cruel acts of violence against the Congolese population, his statement revived public debate on important themes as colonialism, exploitation, and racism. Therefore, it would not be surprising if Chokri Ben Chikha set up a new *Truth Commission* in the near future. This sequel could be a contribution to the fight against police brutality towards people of colour, systemic racism, and the injustices black communities in Belgium and all over the world have had, and still have, to endure. To critically play with the dramaturgy of the courtroom on stage seems a promising way to actually enact law.

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Notes

1. "King Filip Expresses 'Deepest Regret' for Belgian Wrongdoing in Congo," *Vrtnews.Be*, June 30, 2020, <https://www.vrt.be/vrtnews/en/2020/06/30/king-filip-express-deepest-regret-for-belgian-wrongdoing-in-cong> < <https://www.vrt.be/vrtnews/en/2020/06/30/king-filip-express-deepest-regret-for-belgian-wrongdoing-in-cong>> . 
2. "Na de Spijtbetuiging van Koning Filip: Wat Is Het Verschil Met Excuses? En Leidt Dit Tot Herstelbetalingen?" *Vrt Nws*, June 30, 2020, <https://www.vrt.be/vrtnews/nl/2020/06/30/reactie-brief-koning> < <https://www.vrt.be/vrtnews/nl/2020/06/30/reactie-brief-koning>> . 
3. Jairzinho Lopes Pereira, "King Leopold II's Last Laugh: The Evolution of Mgr. Augouard's Attitudes towards the Congo Free State (189-1908)," *Catholic Historical Review* 105, no. 4 (Autumn, 2019): 677–678, <https://doi.org/10.1353/cat.2020.0002> < <https://doi.org/10.1353/cat.2020.0002>> . 

4. "Activists Pull Bust of Leopold II from Pedestal in Leafy Brussels Suburb," *Vrtnews.Be*, June 12, 2020, <https://www.vrt.be/vrtnews/en/2020/06/12/activists-pull-bust-of-leopold-ii-from-pedestal-in-leafy-brussel> < <https://www.vrt.be/vrtnews/en/2020/06/12/activists-pull-bust-of-leopold-ii-from-pedestal-in-leafy-brussel>> . 
5. Vlaams Parlement, Voorstel van resolutie van Elisabeth Meuleman, Stijn Bex en Imade Annouri over het opnemen van de kolonisatie en het dekolonisatieproces in de eindtermen van het Vlaamse basis- en secundair onderwijs.Vlaamse Overheid, May 9th, 2020. 
6. Vlaams Parlement, Verslag namens de Commissie voor Onderwijs uitgebracht door Jan Laeremans en Loes Vandromme over ht voorstel van resolutie van Elisabeth Meuleman, Stijn Bex en Imade Annouri over het opnemen van de kolonisatie en het dekolonisatieproces in de eindtermen van het Vlaamse basis- en secundair onderwijs, Vlaamse Overheid, July 13th, 2020. 
7. Chokri Ben Chikha, Beste Kamervoorzitter Dewael, wij staan voor u klaar! Facebook, June 16, 2020, 18:26, <https://www.facebook.com/chokribc/posts/10220146050859360> < <https://www.facebook.com/chokribc/posts/10220146050859360>> , accessed 29 January 2021. 
8. Ben Chikha's Truth Commission is a recurring bilingual performance (in Dutch and French) that integrates theatre, literature, dance, and music into a hybrid performance that blurs the line between a real truth commission and its fictional counterpart: <https://www.actionzoohumain.be/nl/productie/de-waarheidscommissie> < <https://www.actionzoohumain.be/nl/productie/de-waarheidscommissie>> . 
9. Janelle Reinelt, and Maria Estrada-Fuentes, "Introduction: Leveraging Justice," *Lateral* 5, no. 2 (2016), <https://doi.org/10.25158/L5.2.1> 
10. Erika Fischer-Lichte *The Semiotics of Theater* (Bloomington: Indiana University Press, 1992), 7. 
11. Ian Read, *Theatre & Law* (London: Palgrave Macmillan Publishers, 2016), 12; emphasis in original. 
12. Peter Goodrich, "Theatres of the Book: Covering, Flaunting, Marketing, Author and Text," *Law Text Culture* 14 (2010): 366. 
13. Goodrich, "Theatres of the Book," 366. 
14. Lawrence T. Corrigan et al., "Performative Interior Design in the Criminal Courtroom," *Journal of Interior Design* 43, no. 3 (2018): 45. 
15. Marett Leiboff, *Towards a Theatrical Jurisprudence* (New York: Routledge, 2020), 6. 
16. Julie Saada, "De La Fumée et Des Miroirs. Justice d'après-Guerre, Dramaturgie et Dissensus Politique." *Raisons Politiques* 45, no. 1 (2012): 131. 
17. Karen Knop and Annelise Riles, "Space, Time, and Historical Injustice: A Feminist Conflict-of-Laws Approach to the Comfort Women Agreement," *Cornell Law Review* 102, no. 4 (2017): 872. 
18. Knop and Riles, "Space, Time, and Historical Injustice", 872. 
19. Saada, "De La Fumée et Des Mirroirs," 136. 
20. Peter Goodrich, Peter, and Valérie Hayaert, *Genealogies of Legal Vision* (London: Routledge, 2015), 35. 
21. Martti Koskenniemi, "Between Impunity and Show Trials," *Max Planck Yearbook of United Nations Law* 6, no. 1 (2002): 32-35. 
22. Julie Cassiday, "Marble Columns and Jupiter Lights: Theatrical and Cinematic Modeling of Soviet Show Trials in the 1920s," *The Slavic and East European Journal* 42, no. 4 (1998): 642. 

23. For more information on the history of theatrical tribunals and the influence of theatricality on law procedures, see Klaas Tindemans. *De dramatische samenleving: een politieke cultuurgeschiedenis* (Kalmthout: Pelckmans Pro, 2019); Marett Leiboff and Sophie Nield, eds., "Law's Theatrical Presence," special issue, *Law Text Culture* 14, no. 1 (2010); Anne Wagner, and Richard K. Sherwin, eds., *Law, Culture and Visual Studies* (London: Springer, 2014); Cassandra Sharp and Marett Leiboff, *Cultural Legal Studies: Law's Popular Cultures and the Metamorphosis of Law* (London: Routledge, 2015); Alan Read, *Theatre & Law* (London: Palgrave Macmillan, 2016); and Marett Leiboff, *Towards a Theatrical Jurisprudence* (London: Routledge, 2019). [↗](#)
24. Klaas Tindemans, *Recht en tragedie: de scène van de wet in de antieke polis* (Leuven: Katholieke Universiteit Leuven, 1996), 378. [↗](#)
25. Tindemans, *Recht en tragedie*, 382. [↗](#)
26. Tindemans, *Recht en tragedie*, 378. [↗](#)
27. Karel Vanhaesebrouck, "Het onmogelijke theater van justitie," in *De rechtbank een schouwtoneel: Het spektakel van het strafrecht in België*, ed. Karel Vanhaesebrouck, Christine Guillain, and Yves Cartuyvels (Tielt: Uitgeverij Lannoo, 2015), 14. My translation. [↗](#)
28. Kenji Yoshino, *A Thousand Times More Fair: What Shakespeare's Plays Teach Us About Justice* (New York: Ecco/HarperCollins Publishers, 2012). [↗](#)
29. Yasco Horsman, *Theaters of Justice: Judging, and Working Through in Arendt, Brecht and Delbo* (Redwood City: Stanford University Press, 2010), 14. [↗](#)
30. Horsman, *Theaters of Justice*, 90. [↗](#)
31. Leiboff, *Towards Theatrical Justice*, ch. 7, par. 10. [↗](#)
32. Minou Arjomand, *Staged, Staged: Show Trials, Political Theater, and the Aesthetics of Judgment* (New York: Columbia University Press, 2018), 2–3. [↗](#)
33. Arjomand, *Staged*, 6. [↗](#)
34. Rebecca Schneider, *Performing Remains: Art and War in Times of Theatrical Reenactment* (London: Routledge, 2011), 2. [↗](#)
35. "The term *verbatim* refers to the origins of the text spoken in the play. The words of real people are recorded or transcribed by a dramatist during an interview or research process, or are appropriated from existing records such as the transcripts of an official enquiry. They are then edited, arranged or recontextualized to form a dramatic representation, in which actors take on the characters of the real individuals whose words are being used." Will Hammond and Dan Steward, eds., *Verbatim Verbatim: Contemporary Documentary Theatre* (London: Oberon Books, 2008), 9. [↗](#)
36. Frederik Le Roy, "Realistische Rituelen: De Documentaire Dubbels van Milo Rau en het International Institute of Political Murder," *Etcetera* 34, no. 146 (2016): 21. My translation. [↗](#)
37. Timmy De Laet, *Re-inventing the past: Strategies of re-enactment in European contemporary dance* (Antwerp: University of Antwerp, 2016), 42–45. [↗](#)
38. Katherine M. Johnson, "Rethinking (Re)Doing: Historical Re-Enactment and/as Historiography," *Rethinking History* 19, no. 2 (2015): 194. [↗](#)
39. See <http://international-institute.de/en/the-last-days-of-the-ceausescus/> < <http://international-institute.de/en/the-last-days-of-the-ceausescus/> > . [↗](#)
40. Milo Rau, "New Realism and the Contemporary World: The Re-enactments and Tribunals of the International Institute of Political Murder," *Documenta* 34, no. 2 (2016): 126. [↗](#)
41. Le Roy, "Realistische Rituelen", 21. [↗](#)
42. Carol Martin, *Theatre of the Real* (New York: Palgrave Macmillan, 2013), 5. [↗](#)
43. Martin, *Theatre of the Real*, 112. [↗](#)

44. Rebecca Schneider, "Opening Space in Time: Gestures of Pre- and Re-Enactment," in *Performance zwischen den zeiten. Reenactments und Preenactments in Kunst und Wissenschaft*, ed. Adam Czirak, Sophie Nikoleit, Friederike Oberkrome, Verena Straub, Robert Walter-Jochum, and Michael Wetzels (Bielefeld: Transcript Verlag, 2019), 124. [↗](#)
45. Schneider, "Opening Space in Time", 124. [↗](#)
46. "De Waarheidscommissie | Action Zoo Humain." *Action Zoo Humain*, December 6, 2018, www.actionzoohumain.be/nl/productie/de-waarheidscommissie. [↗](#)
47. Christel Stalpaert, and Evelien Jonckheere, "De Waarheidscommissie volgens Chokri Ben Chikha: Het performen van differentiële toekomst(en) vanuit een traumatisch koloniaal verleden," *Documenta* 33, no. 2 (2015): 151, <https://doi.org/10.21825/doc.v33i2.16271>. My translation. [↗](#)
48. The current practice of restaging historical zoos *humains* is highly criticized because of the portrayal of the exploited performers as mere victims, a very passive term which Ben Chikha aims to overcome because he does not intend any victimization of the subjects he portrays within his performances. Referring to *Exhibit B* (2014), a highly controversial performance installation by Brett Bailey in which he features black people in cages, Ben Chikha states, "Victimization does not really get us anywhere. What you get is paternalism instead. That is the mistake Bailey made. He allegedly challenged certain ideas but kept portraying the people as victims . . . I literally gave the actors a voice. Bailey did not . . . You have to give your subject a voice in a considerate way. In fact, you have to make your story multi-voiced or polyphonic." (Ben Chikha quoted in Lieselotte Vandebussche, Tine Brouckaert and Laura Andriessen, "The 'Other', Power Relations, and the Zoo Humain: An Interview with Theatre Artist Cokri Ben Chikha," *DiGeSt. Journal of Diversity and Gender Studies* 3, no. 2 (2016): 75–77. [↗](#)
49. Steff Nellis, "De Waarheidscommissie Reconsidered: tussen realiteit en fictie. Een postkoloniaal-marxistische analyse van de Waarheidscommissie van Action Zoo Humain." *Documenta* 37, nr. 1 (2019): 68. [↗](#)
50. Nellis, "De Waarheidscommissie Reconsidered", 67–68. [↗](#)
51. For more information on the history of the exhibition of people, its theatricality, staging, and restaging, see the critical inquiries on the human zoo of Chokri Ben Chikha, Christel Stalpaert, and An van Dienderen. *Wat Is De Kritische Waarde Van Het Gebruik Van Stereotypen Als Theatertekens? De Zoo Humain Als (onder)zoek(s)instrument*. 2013; Ian McLean, "Reinventing the Savage," *Third Text* 26, no. 5 (2012): 599–613, doi:10.1080/09528822.2012.712769; Beverly Serrell, *Judging Exhibitions: A Framework for Assessing Excellence* (Walnut Creek, CA: Left Coast, 2006); and Patrica Purtschert, "The Return of the Native: Racialised Space, Colonial Debris and the Human Zoo." *Identities* 22, no. 4 (2014): 508–23; among many other sources. [↗](#)
52. Martin, *Theatre of the Real*, 112. [↗](#)
53. Bruno Latour, *We Have Never Been Modern* (Cambridge, Harvard University Press, 1993): 144. [↗](#)
54. See for Example Christophe Meierhans' performance *Trials of Money* (2017, http://www.contrepied.de/soon/portfolio_page/trial-of-money/) and Maria Lucia Cruz Correia's *Voice of Nature the Trial* (2019, <http://mluciacruzcorreia.com/works/the-voice-of-natu/>) among many other examples. [↗](#)
55. Francesca Laura Cavallo, "Rehearsing Disaster. Pre-Enactment Between Reality and Fiction," in *Performance zwischen den zeiten. Reenactments und Preenactments in Kunst und Wissenschaft*, ed. Adam Czirak, Sophie Nikoleit, Friederike Oberkrome, Verena Straub, Robert Walter-Jochum, and Michael Wetzels (Bielefeld: Transcript Verlag, 2019): 193. [↗](#)
56. Nellis, "De Waarheidscommissie Reconsidered", 61. [↗](#)
57. Stalpaert and Jonckheere, "De Waarheidscommissie", 156. [↗](#)
58. Klaas Tindemans, "Truth, Justice, and Performative Knowledge: Chokri Ben Chikha's Theatrical 'Truth Commission' on (Neo) colonial Injustices," *Kritika Kultura* 26 (2016): 142, <https://doi.org/10.13185//KK2016.02608>. [↗](#)

59. Cavallo, "Rehearsing Disaster", 187. [↗](#)
60. Christian Biet, "Law, Literature, Theatre: The Fiction of Common Judgment," *Law and Humanities* 5, no. 2 (2011): 291–292, <https://doi.org/10.5235/175214811798043586>. [↗](#)
61. Avi Feldman, *After the Law: Towards Judicial-Visual Activism* (Zurich: ONCURATING.org, 2019), 220. [↗](#)
62. Nicole Rogers, "The Play of Law: Comparing Performances in Law and Theatre," *Queensland University of Technology Law and Justice Journal* 8, no. 2 (2008): 439. <https://doi.org/10.5204/qutlr.v8i2.52>. [↗](#)
63. Horsman, *Theaters of Justice*, 14. [↗](#)
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